



**Filed on: 07/09/2010.**

**Disposed on: 03/02/2011.**

**DISTRICT CONSUMER DISPUTES REDRESSAL FORUM  
TUTICORIN.**

**Present: Thiru.M.Ramachandran, B.Sc., B.L., President.**

**Tmt.G.P.Bhadra Thulasi, Member – I.**

**Thiru.S.Leonard Vasanth, Member – II.**

**(Thursday the 3<sup>rd</sup> day of January 2011)**

**CONSUMER COMPLAINT.NO:57/2010.**

R.Rajakumar,  
S/o.Rajarathinam Nadar,  
1/86, South Street,  
Pudukottai.  
Tuticorin District.

...Complainant.

..VS..

1. The Public Information Officer,  
(Registrar),  
Manonmaniam Sundaranar University,  
Abishegapatti,  
Tirunelveli.
2. The Principal, (Public Information Officer)  
St. Mary's College,  
South Seashore Road,  
Thoothukudi 628 001.

... Opposite parties.

This complaint came before us for final hearing on 6-1-2011 in the presence of Thiru N.Selvaraj, Advocate for the complainant and Thiru D.A. Prabakar, Advocate for the 1<sup>st</sup> opposite party and the 2<sup>nd</sup> opposite party

called absent and set exparte and having stood over till this day for consideration this Forum made the following:

### **ORDER**

This complaint has been filed under section 12 of Consumer Protection Act 1986.

1) The averments in the complaint are as follows: The complainant has filed a petition under R.T.I. Act to furnish some information regarding her sister's education on 29-10-2009 to the 1<sup>st</sup> opposite party for that he has paid Rs.10/- as court fee and hence he is a consumer under the Consumer Protection Act. The 1<sup>st</sup> opposite party has sent the above petition to the 2<sup>nd</sup> opposite party on 10-11-2009 and informed him to furnish the particulars asked for by the complainant within 30 days, a copy of which was also sent to the complainant. But the opposite party has not furnished the particulars even after 30 days and this amount to deficiency of service on their part. The opposite parties have not furnished the particulars under the R.T.I. Act and thereby they have caused much annoyance to the complainant. Hence the complainant has filed this complaint to direct the opposite parties to pay Rs.1,00,000/- as compensation for the deficiency of service committed by them and to pay Rs.1,00,000/- as

compensation for the mental agony and loss caused to him and the cost of the proceedings.



2) The averments in the written version of the 1<sup>st</sup> opposite party are as follows: This complaint is not maintainable either in law or on facts and it has to be dismissed in limine. Court fee affixed or fees paid to a public authority under Right to Information Act cannot be construed as a fee paid by a consumer. The fee to get information is fixed by the Government and the 1<sup>st</sup> opposite party is performing his statutory duty and hence the complainant is not a consumer. The complainant has given a petition to 1<sup>st</sup> opposite party asking for some information pertaining to the copy of applications of Female Students to B.Sc., Computer Science received by St. Mary's College, Tuticorin for the year 2006-2007. It was received by 1<sup>st</sup> opposite party on 30-10-2009 and since the information's were not available with him he forwarded the above petition to 2<sup>nd</sup> opposite party on 10-11-2009 with a request to furnish informations and copy marked to the complainant. The 2<sup>nd</sup> opposite party sent a letter to 1<sup>st</sup> opposite party on 3-12-2009 stating that the required informations were furnished to the same complainant on 26-5-2009 in a case 24894/enquiry/2009 before State Information Commission, Chennai and hence it is not necessary to give the same information again. As far as the 1<sup>st</sup> opposite party is concerned he has



done his statutory duties. If aggrieved the complainant can prepare an appeal u/s.19(1) of R.T.I. Act 2005. But the complainant has chosen a wrong Forum to get the remedy. The complainant is not a consumer and no deficiency of service has been committed by this opposite party. This opposite party has forwarded the petition dated 29-10-2009 seeking informations to 2<sup>nd</sup> opposite party according to R.T.I. Act. No mental agony was caused to the complainant by the auction of this opposite party. The damages claimed are exorbitant and imaginary. Hence the complaint is liable to be dismissed.

3) The points for consideration are:

1. Whether the complainant is a consumer under the provisions of the Consumer Protection Act and this Forum has got jurisdiction to entertain this complaint?
2. Whether the opposite parties have committed deficiency in service and if so; to what relief the complainant is entitled to?

4) Points: The complainant has filed a petition before the 1<sup>st</sup> opposite party under R.T.I Act on 29-10-2009 seeking some particulars and since the particulars are not available with the 1<sup>st</sup> opposite party he has sent the above petition to the 2<sup>nd</sup> opposite party with request to furnish the particulars called for therein to the complainant, but the 2<sup>nd</sup> opposite party



has not furnished the particulars to the complainant in stead gave a reply to the 1<sup>st</sup> opposite party that the required informations have already been furnished to the same complainant in response to an earlier petition and hence it is not necessary to give the same information once again. The 1<sup>st</sup> opposite party has stated that this Forum has no jurisdiction to entertain this complaint since the Court fee affixed or fees paid to a public authority under Right to Information act cannot be construed as a fee paid by the consumer and if at all the complainant is aggrieved he can prefer an appeal U/s.19(1) of Right to Information Act only. The National Commission in Dr.S.P.Thirumala Rao Vs. Municipal Commissioner, Mysore City Municipal Corporation has held that Right to Information Act does not have any overriding effect on the Consumer Protection Act, 1986 and Section 3 of the Consumer Protection Act provides an additional remedy; that the bar of jurisdiction in the Right to Information Act is only against the Courts as also in respect of the order made under the Act and since in this case the opposite party has not passed any order on account of which the question of bar of jurisdiction does not arise and it is a case of deficiency of service. The contention of the opposite parties that if aggrieved the complainant can prefer an appeal U/s.19(1) of the Right to Information Act is not applicable to this case since the opposite parties have not furnished any information in



time and hence the complainant could not approach proper authority for redressal of his grievance on account of deficiency of service. Hence the contention of the opposite parties that the complainant is not a consumer and this Forum has no jurisdiction to entertain this complaint does not seem to be acceptable.

5) To prove the case of the complainant proof affidavit has been filed and Ex.A1 to Ex.A3 have been marked. Ex.A1 is the copy of the petition given by the complainant under Right to Information Act to the 1<sup>st</sup> opposite party. Ex.A2 is the acknowledgement card for that. Ex.A3 is the copy of the letter sent by the 1<sup>st</sup> opposite party to the 2<sup>nd</sup> opposite party with a copy to the complainant with request of furnishing particulars called for by the complainant. On the side of the 2<sup>nd</sup> opposite party proof affidavit has been filed and no documents have been marked. Ex.A3 would prove that the 1<sup>st</sup> opposite party has transmitted the petition filed by the complainant to the 2<sup>nd</sup> opposite party with direction to furnish the particulars called for to the complainant. The 2<sup>nd</sup> opposite party has stated that the 1<sup>st</sup> opposite party has written a letter to him stating that the particulars required by the complainant have already been furnished to him in another case and hence it is not necessary to furnish the same particulars once again to the complainant. The 2<sup>nd</sup> opposite party who remained *exparte* has not filed any documents to



prove that the same particulars were furnished to the complainant earlier.

More over even if the above contention is correct the complainant filed a

fresh petition with due fee under Right to Information Act and it is incumbent on the part of the opposite parties to furnish the particulars.

Hence the contention of the opposite parties that they have already furnished the particulars to the complainant and hence it is not necessary to furnish the

same once again seems to be not correct. The 1<sup>st</sup> opposite party has

transmitted the petition filed by the complainant to the 2<sup>nd</sup> opposite party

since the particulars required by the complainant are not available with him

with a request to furnish the particulars to the complainant by the 2<sup>nd</sup>

opposite party. But the 2<sup>nd</sup> opposite party has not furnished the particulars

even after lapse of 30 days which amounts to deficiency of service on his

part.

6) In the circumstances stated above, we come to the conclusion that the 2<sup>nd</sup> opposite party has committed deficiency of service and hence the complainant is entitled for the relief as prayed for. We decide these points accordingly.

7) In the result, the complaint is allowed and the 2<sup>nd</sup> opposite party is directed to pay Rs.20,000/- to the complainant as compensation for the mental agony caused to the complainant due to deficiency of service on



his part and to pay Rs.3000/- towards cost of the proceedings within a period of two months from the date of this order, failing which the complainant is at liberty to execute this order U/s.25 and 27 of the Consumer Protection Act 1986. The complaint against 1<sup>st</sup> opposite party is dismissed without costs.

Dictated to the Steno-typist, taken and typed by him, and corrected by me and pronounced by us in the Open Forum on this the 3<sup>rd</sup> day of February 2011.

  
Member II.

  
Member I.

  
President. 2/2/2011

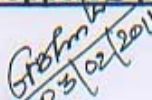
### Annexure


#### I) List of documents marked for the complainant:


1. Ex.A1/29-10-09 : Xerox copy of the petition given by the complainant to the 1<sup>st</sup> opposite party
2. Ex.A2/ : Xerox copy of the postal acknowledgement card
3. Ex.A3/10-11-09 : Xerox copy of the letter to the 2<sup>nd</sup> opposite party by the 1<sup>st</sup> opposite party

#### II) List of documents marked for the opposite parties: Nil.

  
Member II.

  
Member I.

  
President. 2/2/2011

By Order  
  
Head Clerk  
District Consumer Disputes  
Redressal Forum, Tumkur  
Certified copy issued on Payment